

# Food Service Sanitation

1. Title
2. Findings
3. FDA Food Code Adoption
4. Violation
5. Automatic Amendments
6. Health Official
7. Health Advisor
8. Food Service Establishment
9. Certification
10. Food Service Establishment Permit
11. Community Kitchens
12. Temporary Food Service Establishment
13. Annual Inspection Charges
14. Corrective Measures / Closure
15. Effective Date

Ordinance #74  
**Food Service Sanitation**

BE IT ENACTED by the Board of Directors of the Tulalip Tribes of Washington, organized under Section 16 of the Act of June 1934 (43 Stat. 984), pursuant to the Tribes' inherent sovereign authority and the Tribes' Constitution Article VI, Section I(a), (f) and (i), and Bylaws as approved by the Secretary of the Interior:

1. Title. This Ordinance shall be known as the Tulalip Food Service Sanitation Ordinance.
2. **Findings.** The Board of Directors, after carefully considering the need for establishing food service sanitation standards in regard to reservation activities, finds:
  - 2.1 The establishment of food service sanitation standards on the reservation would protect the health of all people.
3. **FDA Food Code Adoption.** The *2001 Food Code* published by the United States Health Service/Food and Drug Administration (FDA Food Code) is hereby adopted as Tribal law and made a part of this Ordinance for the purpose of regulating the design, construction, management and operations of permanent food establishments in a manner to provide basic protections for human health. The FDA Food Code and the provisions of this Ordinance shall be applied to all food service establishments within the jurisdiction of the Tulalip Tribes, including Quil Ceda Village. Three copies of the FDA Food Code shall be on file and available for inspection at the at the Tulalip Tribal government headquarters.
  - 3.1 **Exclusions.** Sections 805, 806, 807, 810 & 811 (contained in Annex 1) are hereby deleted and excluded from the FDA Food Code that is adopted as Tribal law and made a part of this Ordinance.
4. **Violation.** Violations of this Ordinance shall be treated as civil infractions enforced under the provisions of Ordinance 114, Civil Infractions. The civil infraction penalty amounts for violations of this Ordinance shall be as follows:
  - (a) First violation - a maximum fine of \$250.00
  - (b) Second violation - a maximum fine of \$ 500.00
  - (c) Third and any subsequent violation - a maximum fine of \$1,000.00

The Health Official shall be authorized to:

- (1) enter onto the premises of food service establishments,
- (2) inspect food service establishments,
- (3) issue corrective action orders, and
- (4) issue notices of infraction. It is the policy of the Tribes to use corrective action orders as the primary means of enforcing this Ordinance.

In determining whether to impose any fine, or in determining the amount of any fine imposed, the Health Official shall take into account whether prior corrective action orders have been complied with, the severity and nature of the violation(s), and the potential harm to human health resulting from such violation. In addition, this Ordinance may be enforced through administrative closure order or injunction in accordance with section 14.

2. Automatic Amendments. Any revisions of the 2001 FDA Food Code by the Health and Human Service Administration/Food and Drug Administration shall automatically be incorporated as Tribal law and shall be deemed to automatically amend this Ordinance in conformity therewith and it shall not be necessary for the legislative authority of the Tulalip Tribes to take any action with regard to such revision, amendment or repeal of the 2001 FDA Food Code provisions.
6. **Health Official.** The Tulalip Tribes of Washington may delegate the power to enforce this Ordinance to the Health Official of the Tulalip Tribes of Washington. The Health Official may receive technical assistance and support from the “Health Advisor.” The Health Advisor is authorized to assist the Tulalip Health Official in interpreting and enforcing the FDA Food Code.
  - 6.1 The term “*Health Official*” shall mean the legally designated health authority of the Tulalip Tribes of Washington, or his representative.
7. **Health Advisor.** The term “*Health Advisor*” shall mean the Indian Health Services.
8. **Food Service Establishment.** The term “*Food Service Establishment*” shall mean in addition to and not in limitation of the definitions contained in the Ordinance and Code and in the Rules and Regulations, community kitchens, and retail food stores.
3. Certification. After consultation with the Health Advisor, the Health Official in his discretion may accept certification by the proper health district of the State of Washington as certification and inspection which meets the requirements of this Ordinance.
10. **Food Service Establishment Permit** Any person who shall engage in business as a food service establishment within the boundaries of the Tulalip Indian Reservation shall be required to possess a valid Food Service Establishment Permit from the Tulalip Tribes. To qualify for a permit, the Food Service Establishment must meet the requirements of the FDA Food Code and this Ordinance. Permits shall be issued by the Health Advisor in conformity with section 8-3 of the 2001 FDA Food Code. A valid Food Service Establishment Permit shall be posted in every food service establishment. All permanent food service establishments shall be assessed an annual permit license fee of \$10. An

inspection shall be required prior to issuance of an initial permit-

- 10.1** All employees of a food service establishment shall:
- (1) be required to possess a “food handlers permit” issued by the Health Official or an equivalent permit issued from another public agency or entity approved by the Health Official, or
  - (2) be under the direct supervision and control of a certified “person in charge” as provided for under Part 2-1 of the 2001 Food Code.
11. **Community Kitchens.** All community kitchens operating on the Tulalip Indian Reservation shall comply fully with the provisions of this Ordinance.
- 11.1** No meals shall be prepared, packaged, processed, or served in or from a community kitchen unless all kitchen staff have a food handlers permit in accordance with the requirements of this Ordinance.
- 11.2** The person holding permits to operate a community kitchen shall be jointly and severally personally liable for any violation of this Ordinance which shall occur in the kitchen to which they are licensed.
12. **Temporary Food Service Establishment.** A “Temporary Food Service Establishment” shall be defined for purposes of this Ordinance as a food service establishment which shall be in operation no more than fourteen (14) consecutive days.
- 12.1** Any person who wishes to operate a Temporary Food Service Establishment shall notify the Health Official prior to opening said Establishment for business. No person shall operate a Temporary Food Service Establishment without written permission from the Health Officials.
- 12.2** The Health Official may require an otherwise Temporary Food Service Establishment to comply with all rules and regulations under this Ordinance as if it were a permanent Food Service Establishment. However, the FDA Food Code provisions relating to Temporary Food Service Establishments shall apply, and the Health Official may allow variances from Food Code requirements provided such variances do not compromise health and safety.
- 12.3** The Health Official may make inspections of any Temporary Food Service Establishment at any reasonable time, without prior notice to the operator of the Establishment.
13. **Annual Inspection Charges.** There shall be an annual inspection fee for food service establishments as follows:
- (a) Full-time eating and drinking facilities:
    - Establishments with seating capacity of 50 or less - \$70.

Establishments with seating capacity of 51-125 - \$125.  
Establishments with seating capacity of 126 or more - \$200.

(b) Part-time permanent eating and drinking facilities:  
Facilities used less than 25 days per year - \$30.

(c) Temporary food service establishment:  
One day or less - \$10  
Two or three days- \$15  
Three to seven days -\$25

**13.1 Re-inspection.** The annual inspection fees shall cover all inspections for the year except re-inspections required as a result of violations. If a corrective action order is issued that requires a re-inspection, a re-inspection fee equal to 50% of the annual fee shall be imposed.

14. **Corrective Measures / Closure.** Upon finding a violation of this Ordinance, or of the Rules and Regulation adopted under this Ordinance, the Health Official is authorized to administratively order corrective measures in accordance with the Food Code. Where the Health Officer finds egregious or repeated violations in which there is imminent harm to human health, the Health officer may order closure of any Food Service Establishment including a Temporary Food Service Establishment, in which the violations exists. A closure order shall be effective immediately and shall act as a suspension of the Food Service Establishment permit.

Any person who shall fail to comply with a corrective action order or continue to operate a Food Service Establishment in violation of a closure order shall be deemed to have violated this Ordinance. Each day which said person shall continue to operate in violation of such order shall be deemed a separate violation of this Ordinance, subjecting such person to civil fines or an injunction in accordance with Section 4.

Any aggrieved person may appeal an administrative closure order in the same manner they may appeal a civil infraction under Ordinance 114, except that an initial review hearing may be set within five (5) business days of filing an appeal of such closure order with the Tribal Court. The filing of an appeal shall not stay a closure order.

15. **Effective Date.** This Ordinance shall become effective forthwith as provided by Article VI, Section 2 of the Constitution and Bylaws of the Tulalip Tribes of Washington.

